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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/435,668	11/08/1999	KEITH WAYNE GOOSSEN	GOOSSEN-80	5527

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EXAMINER

JACKSON, CORNELIUS H

ART UNIT	PAPER NUMBER
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2828

DATE MAILED: 11/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/435,668

Applicant(s)

GOOSSEN, KEITH WAYNE

Examiner

Cornelius H. Jackson

Art Unit

2828

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers


- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____


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DETAILED ACTION

Acknowledgement

1. Acknowledgment is made that applicant's Response, filed on 27 May 2003, has been entered. Claims 1-4 and 6-12 are now pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4 and 6-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Park (5524092). Park discloses a metal capped mirror **Fig. 2**, comprising a layer **12** consisting of tin oxide to which the metal capping layer **11** is directly adhered.

Regarding claim 2, Park discloses at the end of the stack comprising an integral number of pairs of dielectric layers, **see Figs. 1 and 2**.

Regarding claim 3, Park discloses all of the stack layers other than the end layer of tin oxide are materials other than tin oxide, **see col. 5, lines 5-21**.

Regarding claim 4, Park discloses the tin oxide layer is one of a pair of dielectric layers disposed at the stack end, **see Fig. 1**.

Regarding claims 6-8, Park discloses all the stated limitations.

Regarding claims 9-10, Park discloses the meal is of gold, **see col. 4, lines 14-19 and col. 4, lines 54-59**.

Regarding claims 11-12, Park discloses all the stated limitations, **see Figs. 1 and 2**.

Response to Arguments

Applicant's arguments filed 12 December 2002 have been fully considered but they are not persuasive.

Applicant argued the following:

a. Indium tin oxide is an indium oxide doped with tin oxide and as such, indium tin oxide is indium oxide with impurities of tin oxide. Tin oxide is not a conductive material, and in the Applicant's claimed mirrors, does not function as a conductor.

b. The use of the indium tin oxide layer in Park does not anticipate or disclose the use of the claimed tin oxide of the Applicant's invention.

c. The Park reference fails to teach or disclose the invention as recited in claim 1, in particularly "a layer consisting of tin oxide".

d. to support the 102(b) rejection, the Examiner cites information contained in Hebrink and Bandettini. Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

e. The mere fact that a prior art structure could be modified to produce the claimed invention would not have made the modification obvious unless the prior art suggested the desirability of the modification.

In response to Applicant's arguments:

a. Tin oxide is a conducting oxide, **see Hebrink et al. (6449093), col. 14, lines 38-44.**

b. Park uses indium tin oxide as an example of a common oxide used, so that one skill in the art at the time the invention was made would know the type of material that maybe used, **see Bandettini et al. (5959762), col. 7, lines 42-44.**

c. As Applicant stated, indium tin oxide is an indium oxide doped with tin oxide; therefore, the indium tin oxide layer consists of tin oxide. Claim 1 should recite "a layer consisting essentially of tin oxide".

d. Hebrink was only used to show the fact that tin oxide has conductive properties, while Bandettini was used only to show what was well known to be a common oxide in the art at the time the invention was made. Even without the additional references, Park discloses the invention as claimed. Note that, in some circumstances,

it is permissible to use multiple references in a 35 U.S.C. 102 rejection. See MPEP § 2131.01.

e. The Examiner is not relying on the modification of the invention of Park, since Park discloses the claimed invention. But the mere fact that a prior art structure could be modified to contain a layer consisting essentially of tin oxide would have been an obvious the modification since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2828


the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cornelius H. Jackson whose telephone number is (703) 306-5981. The examiner can normally be reached on 8:00 - 5:00, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Ip can be reached on (703) 308-3098. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-7722 for regular communications and (703)308-7721 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.


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